

The Delta Stewardship Council intends to approve a Notice to Proceed (NOP) for publication in December 2010. This preliminary draft version of the NOP includes a discussion of the Introduction, Purpose of the Notice of Preparation, Background and Need for the Project, and Project Objectives.

The remaining portions of the NOP will be provided for review and comment at the October 2010 Delta Stewardship Council (Council) meeting. The remaining portions will include Environmental Baseline, Preliminary Proposed Project and Alternatives, Potential Environmental Effects, and specific items for the Project Scoping Process.

The Council solicits electronic communications specifically directed to the various drafts of the NOP, as described below.

All comments will be posted on the Council web site, and staff and consultants are directed to review and consider submitted comments in preparation of revised versions of the NOP, in addition to testimony delivered at Council meetings.

PRELIMINARY DRAFT

INITIAL SECTIONS OF NOTICE OF PREPARATION

Prepared for consideration by the Delta Stewardship Council

September 15, 2010

**Not reviewed by or approved by the
Delta Stewardship Council**

**Send comments to
deltaplancomment@deltacouncil.ca.gov**

Comments received by Friday, October 1, 2010 will be considered for revisions made in developing the following draft of the Notice of Preparation.

All comments received are posted to the Delta Stewardship Council web site:

DATE ISSUED: December XX, 2010

**PRELIMINARY DRAFT
NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT
FOR THE DELTA PLAN**

INTRODUCTION

In November 2009, the California Legislature enacted SBX7 1 (Act), one of several bills passed at this time related to water supply reliability, ecosystem health, and the Delta. The Act became effective on February 3, 2010.¹ Division 35 of this legislation, also known as the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act), requires the development of a legally enforceable, comprehensive, long-term management plan for the Delta, referred to as the Delta Plan. The Delta Stewardship Council (Council), an independent agency of the state created by the Act (Water Code Section 85200) will develop and adopt the Delta Plan by January 1, 2012 (Water Code 85300).

The fundamental purpose of the Delta Plan will be to meet the coequal goals and all of the inherent subgoals defined by statute. The Delta Plan will define an integrated and legally enforceable set of policies, strategies, and actions that will serve as a basis for future findings of consistency by state and local agencies with regard to their Delta-related projects, and for subsequent evaluation of those findings by the Council on appeal, as provided in statute and Council regulation.

The Council will serve as the lead agency for development of the Delta Plan pursuant to the California Environmental Quality Act (CEQA) of 1970, as amended. This Notice of Preparation (NOP) has been prepared to satisfy the requirements of CEQA.

This NOP describes the Purpose of the NOP, Background, Need for the Project, Project Objectives, Environmental Baseline (including Project Location and Time Period), Potential Alternatives, Potential Environmental Effects, and Project Scoping Process.

PURPOSE OF NOTICE OF PREPARATION

Pursuant to CEQA, the Council is initiating preparation of an EIR for the Delta Plan. This NOP has been prepared to satisfy the requirements of CEQA to notify the public, Responsible Agencies, Trustee Agencies, the state Office of Planning and Research, and involved federal agencies that the Council intends to prepare an EIR for this project and to solicit guidance from

¹ The Act modified amended Sections 29702, 29725, 29727, 29733, 29735, 29735.1, 29738, 29741, 29751, 29752, 29754, 29756.5, 29763, 29771, and 29780 of the Public Resources Code; added Sections 29703.5, 29722.5, 29722.7, 29728.5, 29759, 29773, 29773.5, and 29778.5; added Division 22.3 of the Public Resources Code; repealed Section 29762 and repealed and added Sections 29736, 29739, 29753, 29761, 29761.5, and 29764 of the Public Resources Code. The Act also added Division 35 (commencing with Section 85300) and repealed Division 26.4 of the Water Code.

the public and those agencies as to the scope and content of the environmental information to be included in the Delta Plan EIR.

- The NOP is an important step in initiating the Scoping Process to determine the range of issues to be addressed in the EIR. The objectives of the Scoping Process are:
- Provide an opportunity for public and agency involvement in preparation of the Delta Plan EIR,
- Identify the scope of issues and potential impacts that must be discussed in an EIR to adequately and accurately address potential impacts of the Delta Plan, and
- Establish a reasonable range of alternatives to the proposed project.

During development of the Delta Plan and Delta Plan EIR, the Council will consult with responsible and trustee agencies of the State of California. A "responsible agency" means a public agency, other than the lead agency, that has the responsibility for implementing or approving the Delta Plan or portions of the Delta Plan. A "trustee agency" means a state agency that has jurisdiction by law over natural resources that are held in trust for the people of the State of California and that could potentially be affected by implementation of the Delta Plan. Pursuant to Section 21080.4(a) of the Public Resources Code, responsible and trustee agencies are asked through this NOP to provide, in writing, the scope and content of the environmental information that is germane to the statutory responsibilities of the responsible agency. Responsible and trustee agencies are also requested to identify potential application of their regulatory policies and permitting standards to be considered in the proposed baseline for the EIR.

An initial list of state and local agencies that are requested through this NOP to participate as a responsible or trustee agency is presented as Attachment 1.

The Delta Plan must be developed to be consistent with the Coastal Zone Management Act of 1972 (CZMA) (16U.S.C. Sec. 1451 et seq.), or an equivalent compliance mechanism if one exists; Section 8 of the federal Reclamation Act of 1902; and the Clean Water Act (33 U.S.C. Sec. 1251 et seq.) (Water Code Section 85300 (d)(1)(A)). Following the preparation of the Delta Plan in accordance with CZMA, the Council will submit the Delta Plan for approval to the U.S. Secretary of Commerce pursuant to that act, or to other federal officials assigned responsibility for the Delta pursuant to federal statute. At that time, the federal agency would initiate environmental documentation pursuant to the National Environmental Policy Act (NEPA) of 1970, as amended, to inform their decisions.

BACKGROUND AND NEED FOR THE PROJECT

In creating the Council and requiring development of the Delta Plan, the Legislature and found and declared the following background for the Delta Plan (Sections 85001-85004 of the Water Code):

85001. The Legislature finds and declares all of the following:

- (a) The Sacramento-San Joaquin Delta watershed and California's water infrastructure are in crisis and existing Delta policies are not sustainable.

1 Resolving the crisis requires fundamental reorganization of the state's
2 management of Delta watershed resources.

3 (b) In response to the Delta crisis, the Legislature and the Governor required
4 development of a new long-term strategic vision for managing the Delta. The
5 Governor appointed a Blue Ribbon Task Force to recommend a new "Delta
6 Vision Strategic Plan" to his cabinet committee, which, in turn, made
7 recommendations for a Delta Vision to the Governor and the Legislature on
8 January 3, 2009.

9 (c) By enacting this division, it is the intent of the Legislature to provide for the
10 sustainable management of the Sacramento-San Joaquin Delta ecosystem, to
11 provide for a more reliable water supply for the state, to protect and enhance the
12 quality of water supply from the Delta, and to establish a governance structure
13 that will direct efforts across state agencies to develop a legally enforceable Delta
14 Plan.

15 85002. The Legislature finds and declares that the Sacramento-San Joaquin Delta,
16 referred to as "the Delta" in this division, is a critically important natural resource for
17 California and the nation. It serves Californians concurrently as both the hub of the
18 California water system and the most valuable estuary and wetland ecosystem on the
19 west coast of North and South America.

20 85003. The Legislature finds and declares all of the following:

21 (a) Originally, the Delta was a shallow wetland with water covering the area for
22 many months of the year. Natural levees, created by deposits of sediment, allowed
23 some islands to emerge during the dry summer months. Salinity would fluctuate,
24 depending on the season and the amount of precipitation in any one year, and the
25 species that comprised the Delta ecosystem had evolved and adapted to this
26 unique, dynamic system.

27 (b) Delta property ownership developed pursuant to the federal Swamp Land Act
28 of 1850, and state legislation enacted in 1861, and as a result of the construction
29 of levees to keep previously seasonal wetlands dry throughout the year. That
30 property ownership, and the exercise of associated rights, continue to depend on
31 the landowners' maintenance of those nonproject levees and do not include any
32 right to state funding of levee maintenance or repair.

33 (c) In 1933, the Legislature approved the California Central Valley Project Act,
34 which relied upon the transfer of Sacramento River water south through the Delta
35 and maintenance of a more constant salinity regime by using upstream reservoir
36 releases of freshwater to create a hydraulic salinity barrier. As a result of the
37 operations of state and federal water projects, the natural salinity variations in the
38 Delta have been altered. Restoring a healthy estuarine ecosystem in the Delta may
39 require developing a more natural salinity regime in parts of the Delta.

40 85004. The Legislature finds and declares all of the following:

41 (a) The economies of major regions of the state depend on the ability to use water
42 within the Delta watershed or to import water from the Delta watershed. More
43 than two-thirds of the residents of the state and more than two million acres of
44 highly productive farmland receive water exported from the Delta watershed.

- 1 (b) Providing a more reliable water supply for the state involves implementation
- 2 of water use efficiency and conservation projects, wastewater reclamation
- 3 projects, desalination, and new and improved infrastructure, including water
- 4 storage and Delta conveyance facilities.

Preliminary Draft
Initial Sections
of NOP

PROJECT OBJECTIVES

The Delta Plan will be a legally enforceable, comprehensive, long-term management plan for the Delta. The primary and fundamental purpose of the Delta Plan is to meet the coequal goals and the inherent subgoals defined in the Act, which in turn, will assist in guiding the state/local agency actions related to the Delta.

The Delta Plan project objectives are defined by the coequal goals and policy objectives presented in Sections 85084, 85020, and 85021 of the Water Code, as follows.

85054. “Coequal goals” means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

85020. The policy of the State of California is to achieve the following objectives that the Legislature declares are inherent in the coequal goals for management of the Delta:

(a) Manage the Delta’s water and environmental resources and the water resources of the state over the long term.

(b) Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place.

(c) Restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem.

(d) Promote statewide water conservation, water use efficiency, and sustainable water use.

(e) Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta.

(f) Improve the water conveyance system and expand statewide water storage.

(g) Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection.

(h) Establish a new governance structure with the authority, responsibility, accountability, scientific support, and adequate and secure funding to achieve these objectives.

85021. The policy of the State of California is to reduce reliance on the Delta in meeting California’s future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts.

1 The fundamental purpose of the Delta Plan will be to meet the coequal goals and all of the
2 inherent subgoals defined by statute. The Delta Plan will define an integrated and legally
3 enforceable set of policies, strategies, and actions that will serve as a basis for future findings of
4 consistency by state and local agencies with regard to their Delta-related projects, and for
5 subsequent evaluation of those findings by the Council on appeal, as provided in statute and
6 Council regulation.

7
8 ***The Following Sections to Be Completed for Discussion at October***
9 ***Delta Stewardship Council Meeting***

10 **ENVIRONMENTAL BASELINE (including Project Location and Time Period for**
11 **Analysis)**

12 **PRELIMINARY PROPOSED PROJECT AND POTENTIAL ALTERNATIVES**

13 **POTENTIAL ENVIRONMENTAL EFFECTS OF PROPOSED PROJECT AND**
14 **POTENTIAL ALTERNATIVES**

15 **PROJECT SCOPING PROCESS**

16 **ATTACHMENT 1: INITIAL LIST OF RESPONSIBLE AND TRUSTEE AGENCIES FOR**
17 **DEVELOPMENT OF THE DELTA PLAN ENVIRONMENTAL IMPACT REPORT**